

OFFICIAL COPY

Fresno, California

August 22, 2006

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Jerry Duncan	Council President

Andy Souza, City Manager
 James Sanchez, City Attorney
 Becky Klisch, City Clerk
 Yolanda Salazar, Assistant City Clerk

Pastor Lemons of the Bethel Christian Center gave the invocation, and Councilmember Dages led the Pledge of Allegiance.

PROCLAMATION OF THE FIRST PRESBYTERIAN CHURCH DAY - COUNCILMEMBERS BOYAJIAN AND STERLING

Read and presented.

APPROVE MINUTES OF AUGUST 15, 2006:

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the minutes of August 15, 2006, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Westerlund advised he received a couple of calls from constituents on a slow down of graffiti removal by the City and also spoke to long-standing graffiti at Granite Park, with City Manager Souza requesting the addresses be provided to him.

Councilmember Sterling thanked everyone who attended the Roeding Park/Storyland/Playland event last Saturday stating a great time was had by all and added the park was on its way to becoming a tourist attraction.

Councilmember Boyajian thanked the residents of the 900-1000 block of W. Cambridge for their participation in a neighborhood meeting to discuss major issues and concerns and also commended the police officers who attended for their participation.

President Duncan thanked Human Relations Commissioner Enrique Reade for organizing the motorcycle fund-raising event for Storyland/Playland.

APPROVE AGENDA:

(4:00 P.M. #1) HEARING ON TEXT AMENDMENT APPLICATION NO. TA-05-01 RELATING TO THE DEFINITION AND CLASSIFICATION OF GROUP HOME FACILITIES (*Continue to September 9, 2006, at 9:45 a.m.*)

Continued as noted.

(9:15 A.M. "D") APPROVE THE ACQUISITION OF THE VIRGINIA HOTEL AT 2125-45 KERN STREET FROM THE ESTATE OF SPALDING G. WATHEN

Rescheduled for August 29, 2006.

(4:15 P.M.) REQUEST STAFF TO RETURN WITH AN UPDATE ON THE EVALUATION OF THE "WAYSIDE HORN" FOR USE AT AT-GRADE CROSSING ON THE BNSF MAIN LINE THROUGHOUT FRESNO - COUNCILMEMBER CALHOUN

Laid over to August 29, 2006, at the direction of Councilmember Calhoun.

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the **AGENDA** hereby approved, *as amended*, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

ADOPT CONSENT CALENDAR:

Teri Baymer, California Business Machines, stated she was appealing Item **1-A** as they were the lowest bidder and explained. (The item was subsequently pulled from Consent for later action).

Councilmember Westerlund pulled Items **1-B**, **1-R** and **1-U**, Councilmember Dages pulled Item **1-V**, and Councilmember Boyajian pulled Item **1-A** from the Consent Calendar for discussion/action at 2:00 p.m.

(1-C) RESOLUTION NO. 2006-387 - AUTHORIZING THE APPLICATION FOR AND ACCEPTANCE OF GRANT FUNDING FROM THE CALIFORNIA ENERGY COMMISSION TO BE USED TO ASSIST PUBLIC AGENCIES TO ESTABLISH AN INFRASTRUCTURE FOR DISPENSING ALTERNATIVE MOTOR VEHICLE FUELS, AND AUTHORIZE THE EXECUTION OF DOCUMENTS

(1-D) RESOLUTION NO. 2006-388 - APPROVING THE SUMMARY VACATION OF PORTIONS OF BRUNSWICK AVENUE BETWEEN BULLARD AND BULLETIN, ENDOR AVENUE NORTH OF BULLARD, AND THE BULLARD-ENDOR ALLEY BETWEEN BRUNSWICK AND ENDOR AVENUES

(1-E) RESOLUTION NO. 2006-389 - SETTING THE TIME AND PLACE FOR THE PUBLIC HEARING TO CONSIDER FORMATION OF UNDERGROUND UTILITY DISTRICT NO. FRE-86 - WILLOW AVENUE BETWEEN SHEPHERD AND BEHYMER AVENUES

(1-F) APPROVE THE ACQUISITION OF EASEMENTS FROM APNs 312-270-08 AND 312-062-25 VALUED AT \$4,190, AND \$7,525; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR ASSISTANT DIRECTOR TO ACCEPT THE DEEDS OF EASEMENT FROM MARTIN AND SARA BELTRAN AND PERCY AND CRYSTAL WELLS-WILLIAMS, AND SIGN ALL NECESSARY DOCUMENTS TO COMPLETE ACQUISITION OF THE EASEMENTS FOR THE WIDENING OF CLINTON AVENUE BETWEEN N. CORNELIA AND N. POLK AVENUES

(1-G) RESOLUTION NO. 2006-390 - APPROVING THE SUMMARY VACATION OF AN EMERGENCY ACCESS EASEMENT LOCATED BETWEEN WALDBY AND ORANGEWOOD AVENUES FROM WOODWARD TO HAMILTON AVENUES IN TRACT NO. 3632

(1-H) ADOPT RESOLUTION OF INTENTION NO. 1052-D SETTING THE PUBLIC HEARING FOR SEPTEMBER 19, 2006, TO CONSIDER THE VACATION OF A PORTION OF THE BROADWAY-"H" ALLEY NORTHWEST OF AMADOR STREET

(1-I) APPROVE RENEWAL OF A FIVE-YEAR LEASE FOR JOINT POLICE/SHERIFF OFFICE SPACE ON E. MCKINLEY AVENUE, AND AUTHORIZE THE CHIEF OF POLICE TO EXECUTE THE LEASE AGREEMENT ON BEHALF OF THE CITY

(1-J) AWARD MULTI-PRIME CONTRACTS RELATED TO THE REHABILITATION OF THE SELLAND ARENA BACK OF HOUSE

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1. AWARD CONTRACT IN THE AMOUNT OF \$285,000 TO DIAZ CONSTRUCTION FOR BID PACKAGE NO. 1, DEMOLITION/CONCRETE/SPECIALITIES/FINISHES
2. AWARD A CONTRACT IN THE AMOUNT OF \$54,130 TO BROGRE CONSTRUCTION, INC., FOR BID PACKAGE NO. 2, METAL STUD FRAMING/PLASTER/DRYWALL
3. AWARD A CONTRACT IN THE AMOUNT OF \$22,900 TO NOLTE SHEET METAL INC., FOR BID PACKAGE NO. 7, HVAC
4. AWARD A CONTRACT IN THE AMOUNT OF \$98,714 TO DAVIS MORENO CONSTRUCTION, INC., FOR BID PACKAGE NO. 8, ELECTRICAL WORK

(1-K) RESOLUTION NO. 2006-391 - 6TH AMENDMENT TO AAR 2006-253 APPROPRIATING \$45,000 FROM A PACIFIC FOREST AND WATERSHED LANDS STEWARDSHIP COUNCIL GRANT TO FUND THE PURCHASE AND OPERATION OF A MOBILE RECREATION TRAILER

(1-L) CONSIDER THE PROPOSED CALIFORNIA-TEMPERANCE NO. 3 REORGANIZATION

1. AFFIRM CITY COUNCIL ACTION OF 12/20/05, ADOPTING THE ENVIRONMENTAL FINDING OF E.A. NO. R-05-84/T-5531/C-05/218, DATED OCTOBER 27, 2005, THAT THE PROJECT PROPOSAL CONFORMS TO THE PROVISIONS OF THE GENERAL PLAN MEIR
2. **RESOLUTION NO. 2006-392** - APPLYING TO LAFCO IN THE MATTER OF THE PROPOSED CALIFORNIA-TEMPERANCE NO. 3 REORGANIZATION

(1-M) CONSIDER THE PROPOSED SHIELDS-POLK NO. 4E REORGANIZATION

1. AFFIRM CITY COUNCIL ACTION OF MAY 9, 2006, ADOPTING THE ENVIRONMENTAL FINDING FOR E.A. NO. R-05-67/T-5537/C-05-195 DATED MARCH 9, 2006, THAT THE PROJECT PROPOSAL CONFORMS TO THE PROVISIONS OF THE GENERAL PLAN MEIR
2. **RESOLUTION NO. 2006-393** - APPLYING TO LAFCO IN THE MATTER OF THE PROPOSED SHIELDS-POLK NO. 4E REORGANIZATION

(1-N) RESOLUTION NO. 2006-394 - APPROVING THE FINAL MAP OF TRACT NO. 5340 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, NORTHWEST CORNER OF N. MAPLE AND E. POWERS AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR, FIRE CHIEF AND PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS

(1-O) RESOLUTION NO. 2006-395 - APPROVING THE FINAL MAP OF TRACT NO. 5294 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, WEST SIDE OF S. TEMPERANCE BETWEEN E. KINGS CANYON ROAD AND E. BUTLER AVENUE

1. AUTHORIZE THE PUBLIC WORKS AND PLANNING & DEVELOPMENT DIRECTORS TO EXECUTE THE NECESSARY DOCUMENTS

(1-P) RESOLUTION NO. 2006-396 - APPROVING THE FINAL MAP OF TRACT NO. 5283 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, SOUTH SIDE OF E. KINGS CANYON ROAD BETWEEN S. ARMSTRONG AND S. TEMPERANCE AVENUES

1. AUTHORIZE THE PUBLIC WORKS AND PLANNING & DEVELOPMENT DIRECTORS TO EXECUTE THE NECESSARY DOCUMENTS

(1-Q) APPROVE REAPPOINTMENTS OF MIKE RASTEGAR AND FRANK FRANCO TO THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT, AND EDGAR DEATHERAGE TO THE CIVIL SERVICE BOARD - MAYOR AUTRY

(1-S) BILL NO. B-114 - ORDINANCE NO. 2006-119 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO PROCEDURES REGARDING MASSAGE BUSINESSES

(1-T) BILL NO. B-115 - ORDINANCE NO. 2006-120 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO ADJUSTMENT OF ALLOWANCES

(1-W) BILL NO. B-122 - INTRODUCTION OF BILL REPEALING SECTION OF THE FRESNO MUNICIPAL CODE RELATING TO MEDICAL MARIJUANA DISPENSARIES, AND ADOPTING SECTION RELATING TO PROPERTY DEVELOPMENT STANDARDS FOR MEDICAL MARIJUANA DISPENSARIES AND COOPERATIVES

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

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Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

Councilmember Calhoun complimented staff on the installation of the new digital clock at the rear of the Council Chamber.

(2-A) CONSIDER APPROVAL FOR A COUNCIL OVERRIDE VOTE OF ORDINANCE NO. 2006-100 VETOED BY MAYOR AUTRY ON AUGUST 7, 2006 - PRESIDENT DUNCAN

1. ORDINANCE NO. 2006-100 - REPEALING ORDINANCE NO. 2000-49 AND ADOPTING ORDINANCE SETTING FORTH THE COMPENSATION OF ELECTIVE OFFICIALS (MAYOR AND CITY COUNCIL)

President Duncan announced the time had arrived to consider the issue.

Speaking to the issue were: Harley Turner, opposed; Barbara Hunt, 2475 S. Walnut, opposed; and Marina Magdaleno, business representative for IUOE, Local 39, who stated she supported an increase but had a problem with such a the large jump in pay.

Referencing comments made, President Duncan clarified members receive no re-numeration for their work as the Redevelopment Agency and salaries would not become effective until January 2009.

Councilmember Boyajian stated the salary increase was not about the office holders but about the institution of the City Council; spoke to how the position of Council member has grown, how the current salaries keep some people from running for office, how the position is a full-time job and takes a lot of time, and to his hope that the increase would attract the best; stated the Civil Service process failed and explained; and added an increase would give future members independence and made a motion to override the veto.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the Mayoral veto of Ordinance No. 2006-100 hereby overridden and adoption of the Ordinance affirmed, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(9:00 A.M.) PUBLIC COMMENT - UNSCHEDULED COMMUNICATION:

Franz Weinschenk referenced a recent Fresno Bee article and expressed concern with Mayor Autry's refusal to sign on to the U.S. Mayor's Climate Protection agreement and elaborated.

Barbara Hunt, 2475 S. Walnut, expressed concerns relative to bonds, the City/County tax sharing agreement, and the West Fresno School District.

(9:15 A.M. "A") RESOLUTION - 9TH AMENDMENT TO AAR 2006-253 APPROPRIATING \$32,500,000 TO COMPLETE FUNDING OF THE AWARD OF A CONSTRUCTION CONTRACT FOR THE ORGANIC UPGRADE AT THE FRESNO/CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY (RWRF)

Public Utilities Director Ramirez gave an in-depth overview of the issue, all as contained in the staff report as submitted **(2 - 0)**.

Speaking in support of the issue were Bill Smittcamp, Wawona Frozen Foods and member of the RJI's food processing cluster, who stressed this was an essential project for his industry and for the community; and Barbara Hunt, 2475 S. Walnut.

Councilmember Westerlund advised he has been involved in this issue for some time and concurred it was vital that this project get done but stated he had a problem with the cost and learning about it for the first time last Friday; stated although he knew the bid was going

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to come in higher than the \$76 million appropriated he had received no information and wanted more information on where the additional resources would come from besides the one paragraph in the staff report; stated he was not prepared to make a decision this date and wanted additional information and the ability to speak with staff on where the funds would come from, what the City was giving up to go forward with this project, and what the consequences were; and made a motion to continue the matter to August 29th which he stated would meet the August 30th deadline to award the contract. The motion was seconded and later acted upon.

Lengthy discussion ensued. Mr. Ramirez responded to numerous questions/comments of Councilmember Boyajian relative to the sewer reserve fund, amount available, how \$32 million would be made up, funds the Utility Rate Commission would be looking at, time frame for the reserve fund to be replenished, consequence if there are no rate increases, and if staff was comfortable with a one week delay. Councilmember Calhoun stated he was prepared to support this this date due to the need even though it cost an additional \$32 million and clarified he seconded the motion as he felt every member deserved time to obtain the information desired and added there would be no adverse impact. Acting President Perea stated he, too, was prepared to take action even though the bid came in so much higher as he talked with staff extensively and was comfortable with their position and recommendation, urged Council to take action this date, and at his request Mr. Ramirez spoke to the 18 projects identified to help pay for this project. Councilmember Dages stated he was noticing a pattern and expressed concern with Engineer's estimates being low, and upon his question Mr. Ramirez clarified this Engineer was from the outside. Councilmember Dages stated cost for materials is always the reason for higher bids, an Engineer who does this for a living should know what materials cost, the additional 28% increase above the estimate was hard, and the City needed to look for another Engineer. Mr. Ramirez responded briefly to questions/comments of President Duncan relative to what the Engineer's estimate was, the overage amount being closer to a 40% increase, and where the \$76 million came from/when it was determined.

John Hutson, Chair of the Utility Rate Commission, spoke in strong support of the issue, stated staff should be applauded as there was no bonding involved, stressed the project needed to move forward now, and stated a lot of time had been spent on the issue and staff was correct on their approach.

President Duncan stated he was also supportive but was not opposed to waiting one week noting he also had a few concerns relative to the integrity of the information received.

On motion of Councilmember Westerlund, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled 9:15 a.m. "B" Item continued one week to August 29, 2006, by the following vote:

Ayes :	Boyajian, Calhoun, Westerlund, Duncan
Noes :	Dages, Perea, Sterling
Absent :	None

(9:15 A.M. "B") AWARD A CONTRACT TO GRANITE CONSTRUCTION COMPANY FOR THE INSTALLATION OF STREET INFRASTRUCTURE IN NO NEIGHBORHOOD LEFT BEHIND AREA 73

Assistant Public Utilities Director Andersen reviewed the issue, all as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Lengthy discussion ensued with City Attorney Sanchez, Mr. Andersen and Construction Manager Banuelos responding to questions, comments and/or concerns of Councilmembers Dages, Boyajian, Sterling and Acting President Perea relative to the \$10,000 difference between the two lowest bidders and if local preference was considered, District 5 still waiting for their NNLB projects, what the alternatives were, if City crews were allowed to bid, if City crews did not have the capability to do the work, if Granite Construction has performed work for the City in the past, if Granite completed the work on time, if staff reviewed the company's financials, concern with problems experienced with past NNLB projects, if this contract was better/more specific than past contracts, if time frames were included, concern with other projects in District 7 not yet completed, what controls were in place to ensure the same problems will not occur, if the

City would be monitoring the work, if start and finish dates were included in the contract, if this work was from Year 1 or 2, and the schedule received a month ago for other contracts and request for an updated schedule.

On motion of Acting President Perea, seconded by Councilmember Westerlund, duly carried, RESOLVED, a contract in the amount of \$680,030 hereby awarded to Granite Construction Company as the lowest responsive and responsible bidder, by the following vote:

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Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(9:15 A.M. "C") AWARD A CONTRACT TO AMERICAN PAVING COMPANY, INC., FOR THE INSTALLATION OF STREET INFRASTRUCTURE IN NO NEIGHBORHOOD LEFT BEHIND AREA 29

Assistant Public Utilities Director Andersen reviewed the issue, all as contained in the staff report as submitted.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, who questioned why American Paving is "always" being awarded contracts; and Ignacio Garibay, 2533 N. Knoll.

Discussion ensued with Mr. Andersen, Assistant City Manager Ruiz, Construction Manager Banuelos and John Sloan of American Paving Company responding at length to comments, questions and concerns of Councilmember Sterling relative to her being unhappy that City crews were not involved, if City crews were allowed to bid, if it was assumed City crews were not qualified to perform the work, concern she was not informed beforehand that an outside company was going to do the work, what controls were in place to ensure the same problems would not occur again, her request that staff update her/her office twice a week on how the project is progressing, how American Paving is going to ensure the contract will be completed on time, and why there was such a huge difference between the two bidders. President Duncan stated he was very familiar with American Paving and they were very capable.

On motion of Councilmember Sterling, seconded by Councilmember Westerlund, duly carried, RESOLVED, a contract in the amount of \$872,880.80 hereby awarded to American Paving Company as the lowest responsive and responsible bidder, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(9:15 A.M. "E") APPROVE A MEMORANDUM OF UNDERSTANDING (MOU) TO GOVERN NEGOTIATIONS BETWEEN THE CITY AND BETTS SPRING, A CALIFORNIA CORPORATION, FOR PROPOSED FINANCIAL INCENTIVES FOR ASSISTANCE IN THE DEVELOPMENT OF BETTS SPRING'S CORPORATE HEADQUARTERS AT 2867 S. MAPLE, AND AUTHORIZE STAFF TO INITIATE CEQA REVIEW

Interim Economic Development Director Johnson reviewed the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke in support and to the need to hire local workers.

Mr. Johnson responded to questions of Councilmembers Dages and Boyajian relative who on staff worked with the company, commendation to staff for not only retaining the business but also getting them to move their San Leandro office here and create 95 new jobs, the importance of the 95 jobs, and what the hourly wages would be. President Duncan also commended Mr. Johnson and his staff for the good work.

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the MOU to govern negotiations between the City and Betts Spring for proposed performance-based financial incentives for assistance in the development of Betts Spring's corporate headquarters at 2867 South Maple hereby approved, and staff authorized to initiate CEQA review, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

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(9:15 A.M. "F") AWARD A CONTRACT TO AMERICAN YELLOW CAB FOR DEMAND RESPONSIVE PARATRANSIT TAXI SERVICES

Assistant City Manager Rudd reviewed the issue, all as contained in the staff report as submitted.

Speaking to the issue were: Al Makki, owner of City Cab/Bulldog Cab recently merged with Yellow Cab, who stated one company was not enough and more than two companies were needed to provide the service; Mehdi Hemmatkhani; and Barbara Hunt

Extensive discussion ensued. Councilmember Calhoun expressed his concerns on the issue which included the problem with the service and how he has been talking about that for a long time, MV not performing, his feeling that cab companies exist to deal with this problem, MV averaging 4,000 trips per month, the \$22.50 cost per trip, the high number of no-shows, the entire program being out of control, and MV not meeting the needs. Councilmember Westerlund presented questions and comments at length relative to MV's current performance record, contract performance requirements, if the prior contractor met their requirements, when this contract was approved, who will pay cab costs, how cab costs were paid prior to this contract (**4 - 0**), number of cab rides included in the contract, what MV's plan was to reduce the number of rides from 4,000 to 1,300, reason for the delay in implementing the plan, if MV felt they could achieve the goal of their plan, if MV was willing to cover the cost of cab rides, if commitments were being put in writing, consequence if this contract is not awarded, what the next step would be if this is not approved, and what the consequences were of not having a cab company signed on, with Mr. Rudd and John Siragusa of MV Transportation responding throughout. Councilmember Boyajian presented questions relative to whether the City was now paying more for this service, if MV exceeded the budget, if MV was in violation of their contract, the contract trip threshold, amount of money the City is absorbing above and beyond the amount contracted for, why MV was not absorbing the costs, if there were any penalties included in the contract for non-compliance, and if there was no alternative at this point but to award the contract due to the needs of the community, with Mr. Rudd and City Attorney Sanchez responding throughout.

Discussion continued with Acting President Perea and Councilmember Sterling presenting questions and comments at length relative sensitivity to staff trying to balance the cost overruns and the community's needs, how the \$22.50 cost per trip was derived, reason for charging a flat rate, exceeding the cost by \$500,000 being unacceptable, concern that it seems like MV has to be reviewed every few months, need for MV to be responsible for the cost and not the taxpayer, how Yellow Cab was chosen, how no-shows are handled specifically with those who are severely disabled, consequences if this is not approved, if staff would return with checks and balances, why MV was not picking up the cost, why the plan was not being implemented until October, if MV was understaffed/what their problem was, if MV did not meet with the ADA group to determine their needs, if MV underbid to get to the contract, concern with those being affected and hope that things will be on tract in October, and need for company officials to talk with staff about picking up the cost. A motion and second was made to approve staff's recommendation.

Councilmember Dages stated he was always supportive of Laidlaw and spoke to the issue stating he was almost looking forward to October to tell MV to leave town noting they were thrown out of other communities, stated the lowest bidder did not mean the best and he was going to see if an ordinance could be drafted to award contracts to the best companies and not the lowest bidders, advised he has received a number of calls and he was extremely frustrated, stated Council had no other choice but to award this contract due to FTA regulations, and clarified although he would support this he did not respect MV as they were a disappointment to the disabled community and the entire community.

Councilmember Westerlund clarified at issue was a contract with a taxi cab company and not MV, and directed staff to schedule a report on MV's performance on the October 17th agenda.

President Duncan stated he agreed with a lot of the comments made on MV, spoke to the subject contract and questioned why there could not be a rotation list for cab companies like the police department has for tow companies stating that would give others a

chance to participate, and spoke to the flat rate per trip, questioned if that was a requirement, and stated he did not understand why there could not be a cost per mile adding there were way to save money, with Mr. Rudd responding throughout. President Duncan stated he could not support this as the opportunity was not offered to other qualified cab companies, a lot more money than needed was being spent based on the fare structure, this was an issue that Measure C was involved with and he did not want people to vote against Measure C, being out of compliance was not the City Council's responsibility, staff knew about this for a long time and there was no reason why they had to wait until the last minute to bring this forth, and stated it was his hope this would light the fire for staff to take a fresh, hard look at this program and come back with alternatives and creative ideas. Upon Mr. Rudd's question and recommendation, City Attorney Sanchez stated awarding the contract for a period not to exceed 90 days was permissible to allow staff to look into the alternatives identified by President Duncan. Upon question, the motion-makers accepted the 90 day provision.

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On motion of Councilmember Sterling, seconded by Councilmember Westerlund, duly carried, RESOLVED, a contract hereby to American Yellow Taxicab Company to provide demand responsive taxi services for \$22.50 per trip, for a period not to exceed 90 days, and staff to report back in the interim with alternatives, by the following vote:

Ayes : Boyajian, Dages, Sterling, Westerlund, Duncan
 Noes : Calhoun, Perea
 Absent : None

(5 - 0) Councilmember Calhoun clarified the \$22.50 charge was for one way only and this was not "chump change", and stated he hoped staff was hearing Council's concerns and that the users would realize using cabs or MV was a huge expense as opposed to taking the City's excellent FAX system.

(9:15 A.M. "G") BILL NO. B-123 - INTRODUCTION OF BILL AMENDING THE FRESNO MUNICIPAL CODE RELATING TO PROHIBITION ON BASE SALARY REDUCTIONS FOR UNCLASSIFIED EMPLOYEES' JOB PERFORMANCE
1. PRESENTATION REGARDING "NEW NORMAL" AND "PAY FOR PERFORMANCE"

President Duncan noted this was a bill for introduction and to save time the City Manager offered to delay his presentation until next week.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut; Dennis Major, CFMEA business agent, who clarified CFMEA was opposed to any take-aways from the inception, they were the only group who accepted the "Pay for Performance" plan because it was presented as a discretionary item for each employee to decide whether they wanted to participate, and the group would not have supported it under any other circumstance; and Alex Correa, FCEA, who echoed Mr. Major's comments, stated he felt the whole concept of "Pay for Performance" did not belong in the FMC as it was a collective bargaining issue, and stated FCEA did not support "Pay for Performance" and elaborated.

President Duncan noted an updated ordinance was just submitted and City Attorney Sanchez clarified the ordinance expanded the policy to include not only employment contracts but also MOUs that would have been approved prior to Council's action and it addressed only pay deductions from existing salaries and future reductions from base salaries of unclassified/exempt employees who are not entitled to overtime.

City Manager Souza reiterated the principle behind this plan was one of balancing risk and reward, advised the Administration may be retracting the whole plan if this provision is taken out, stated the City was not alone in having the at-risk component noting the management team at Pelco currently has 40% of their base salary at risk, and stated he looked forward to discussing these issues in more detail next week.

Upon request of Councilmember Dages, Mr. Correa explained why he believed this should not be part of the code and how this would open a door to future negotiations being part of the code. Councilmember Dages stated he believed this should be in the code, stated if someone is not doing their job a reduction in salary is called "being fired", and stated he believed in rewards and further elaborated. President Duncan stated this needed to be in the code for those not protected by a collective bargaining unit, it was a response that this was the only way Council could stop the Administration's obsession with implementing this, and it would make this policy bullet-proof, and added it would not prevent the Administration from offering incentive programs.

On motion of Councilmember Westerlund, seconded by President Duncan, duly carried, RESOLVED, the above entitled Bill No. B-123 introduced before the City Council and laid over, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

LUNCH RECESS - 12:02 P.M. - 2:03 P.M. Councilmember Boyajian arrived shortly into the meeting.

(10:00 A.M.) HEARING ON CFD NO. 2, ANNEXATION NO. 130, TRACT NOS. 5413 AND 5188

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1. **RESOLUTION NO. 2006-397** - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX
2. **RESOLUTION NO. 2006-398** - CALLING A SPECIAL MAILED-BALLOT ELECTION
3. **RESOLUTION NO. 2006-399** - DECLARING ELECTION RESULTS
4. **BILL NO. B-124 - ORDINANCE NO. 2006-121** - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2006-07 AND FUTURE TAX YEARS

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Chief Engineering Technician Witzel advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution Nos. 2006-397, 2206-398 and 2006-399 hereby adopted, and the above entitled Bill No. B-124 adopted as Ordinance No. 2006-121, by the following vote:

Ayes : Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : Boyajian
 Absent : None

(10:05 A.M.) HEARING ON REZONE APPLICATION NO. R-06-09 AND ENVIRONMENTAL FINDINGS, FILED BY LARS ANDERSEN & ASSOCIATES, INC., ON BEHALF OF LANTANA INVESTMENTS, LLC, NORTHWEST CORNER OF E. FLORENCE AND S. CHESTNUT AVENUES

1. **CONSIDER AND ADOPT E.A. NO. R-06-09/T-5637/C-06-27, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**
2. **BILL NO. B-125 - ORDINANCE NO. 2006-122** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-2/UGM

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Bernal advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

Councilmember Dages stated he was very proud of this in-fill project as it would enhance the area and made a motion to approve staff's recommendation.

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled environmental finding dated June 8, 2006, hereby approved, and the above entitled Bill No. B-125 adopted as Ordinance No. 2006-122, by the following vote:

Ayes : Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : Boyajian

Absent : None

(10:15 A.M.) HEARING ON REZONE APPLICATION NO. R-06-06 AND ENVIRONMENTAL FINDINGS, FILED BY RAMIRO OCHOA, PROPERTY LOCATED ON THE EAST SIDE OF N. FULTON BETWEEN E. DIVISADERO STREET AND E. NEVADA AVENUE

1. CONSIDER AND ADOPT E.A. NO. R-06-06, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-126 - ORDINANCE NO. 2006-123 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM C-5 TO R-1

President Duncan announced the time had arrived to consider the issue and opened the hearing. Planner Beedle advised an appeal was filed at the Planning Commission meeting and the appellant was present, gave an overview of the key issues, all as contained in the staff report as submitted, and stated staff supported the project and recommended approval.

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Eddie Echols, 310 N. Fulton, spoke in opposition and requested the zoning not be changed as it would hurt property values.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Councilmember Sterling thanked the applicant, spoke further to project and stated it would increase property values, and made a motion to approve staff's recommendation.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, **RESOLVED**, the above entitled environmental finding dated July 19, 2006, hereby approved, and the above entitled Bill No. B-126 adopted as Ordinance No. 2006-123, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(10:30 A.M.) HEARING ON REZONE APPLICATION NO. R-06-15 AND ENVIRONMENTAL FINDINGS, FILED BY R.W. GREENWOOD ASSOCIATES, INC., ON BEHALF OF BOB AZZARO, SOUTH SIDE OF E. TULARE BETWEEN S. HELM AND S. WILLOW AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-06-15/TPM-2005-43, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-1 (COUNTY) TO R-1

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Bernal advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

Upon question of Councilmember Dages, Mr. Bernal stated he spoke with the applicant who indicated he did call Councilmember Dages' office and there were no issues regarding the project, whereupon Councilmember Dages stated that was not true and requested the hearing be postponed one week so the developer could contact him.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the above entitled 10:30 a.m. Hearing continued to August 29, 2006, at 10:50 a.m., by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(10:45 A.M.) HEARING ON REZONE APPLICATION NO. R-05-89 AND ENVIRONMENTAL FINDINGS, FILED BY QUAD

KNOPF, INC., ON BEHALF OF CENTEX HOMES, SOUTHEAST CORNER OF THE E. HAMILTON AND S. FOWLER AVENUES INTERSECTION

1. CONSIDER AND ADOPT E.A. NO. R-05-89/T-5626, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. **BILL NO. B-127 - ORDINANCE NO. 2006-124** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-1/UGM

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Tackett advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the above entitled environmental finding dated June 1, 2006, hereby approved, and the above entitled Bill No. B-127 adopted as Ordinance No. 2006-124, by the following vote:

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Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(11:00 A.M.) CONTINUED HEARING ON REZONE APPLICATION NO. R-05-8, AND THE APPEAL OF E.A. NO. R-05-81/C-05-216, FINDING OF MITIGATED NEGATIVE DECLARATION PURSUANT TO CEQA GUIDELINES, FILED BY DEWAYNE ZINKIN, PROPERTY LOCATED BETWEEN N. FRESNO STREET, N. FRIANT ROAD, E. AUDUBON DRIVE AND E. COLE AVENUE - FRESNO 40 PROJECT

1. CONSIDER E.A. NO. R-05-81/C-05-216, DETERMINATION OF INITIAL STUDY TO FILE A MITIGATED NEGATIVE DECLARATION AND PROPOSED STAFF RECOMMENDATION TO MAKE FINDING THAT NO NEW ENVIRONMENTAL DOCUMENT IS NECESSARY UNDER THE PUBLIC RESOURCES CODE

2. **BILL NO. B-128 - ORDINANCE NO. 2006-125** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-P/UGM/cz, C-P/UGM/cz, AND C-2/UGM/cz TO R-P/UGM/cz, C-P/UGM/cz AND C-2/UGM/cz

3. RESOLUTION - DENYING THE APPEAL OF THE PLANNING COMMISSION'S DECISION ON THE E.A. AND ADOPTING THE MITIGATED NEGATIVE DECLARATION (*Option "A"*) (NOT ADOPTED)

4. **RESOLUTION NO. 2006-400** - DENYING THE APPEAL OF THE PLANNING COMMISSION'S DECISION ON THE E.A. AND FINDING THAT CUP APPLICATION NO. C-05-216 AND REZONE APPLICATION NO. R-05-81 WILL NOT RESULT IN ANY SIGNIFICANT IMPACTS NOT PREVIOUSLY ASSESSED IN EIR NO. 10129 (*Option "B"*)

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question City Attorney Sanchez clarified the issues before Council this date involved an appeal of the CEQA analysis which he stated did look at the second access issue, and maybe some other related environmental issues.

Planner Braun gave an in-depth PowerPoint presentation on the issue, all as contained in the staff report as submitted, and recommended the appeal be denied, that Council make the finding that the proposed project was assessed in the original EIR and will not result in any significant environmental impacts not previously assessed in the EIR, **(6 - 0)** and approve the rezone application to permit the second access point to Friant Road. Assistant Traffic Engineering Manager Jones spoke at length to traffic issues (Friant Road) and level service ratings and presented a computer simulation on an intersection with the different level service ratings.

Speaking to the issue and expressing various concerns including lack of neighborhood meetings, traffic issues, the project's architecture, the second access, and the EIR were: Joan Heisdorf, President of the Woodward Park Homeowners Association, who submitted a newspaper article into the record; Joyce Kauder; Lydia Flores; Robert Merrill; William Reeve, 264 E. Loyola, who also submitted written material into the record; and Robin Mattos, who read a letter from Attorney Richard Harriman on behalf of the appellants relative to the EIR being legally inadequate, a copy of which was entered into the record.

Speaking in support of the project were Applicant DeWayne Zinkin, who spoke to the background of the issue, the process followed, the numerous changes to the site plan to address neighborhood concerns, the meetings held, and the second access point; Georgiena Vivian, Vice President of VRTP Technologies, who presented the traffic study conducted on the project **(7 - 0)**; and Bruce O'Neil who addressed appeal items and entered written material into the record consisting of a list of the 16 meetings held, responses to the

appeal letter, and a letter from Caltrans acknowledging receipt of a check in the amount of \$27,000 as full mitigation for project impacts to SR 41/Friant interchange.

Mr. Sanchez reminded Council the consideration before them involved both the CEQA consideration as well as the rezone.

Assistant Public Works Director Kirn responded to questions, comments and concerns of Councilmember Boyajian relative to what the infrastructure needs were, what the cost would be to the City for those needs, the impact level ratings, the EIR being flawed, this not being a "mixed use project", the disadvantages of the project or economics not being looked at, what the overriding consideration was, this project not included in the general plan, if it was the City's position that impacts could not be mitigated, and concern that cumulative impacts were not addressed in the EIR.

Mr. Sanchez clarified staff's recommendation was based on the original Fresno 40 EIR and not the general plan MEIR, mitigation measures were proposed, and that was what staff was relying upon and recommending as the basis for the environmental finding which he noted was Option B in Council's packet.

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President Duncan stated the issue was one driveway or two, clarified the project had already been approved and would go forward with one driveway if staff's recommendation is not approved, stated from the report and testimony he saw that two driveways were a safer design and added the safety of people was what mattered to him, and made a motion to approve staff's recommendation with Option B, which motion was seconded by Acting President Perea.

Deputy City Attorney Phelan and Ms. Vivian responded to questions of Councilmember Westerlund relative to whether the developer currently had the entitlement to go out and begin building if this were not approved, the master CUP and if sub-CUPs had been approved, if the issue with the rezone was the two access points on Friant, and numerous questions on the two driveway configurations, the finding that safety would increase with two access points, and the site plan.

On motion of President Duncan, seconded by Acting President Perea, duly carried, RESOLVED, the appeal denied and the finding that the proposed project was assessed in EIR No. 10129 and will not result in any significant environmental impacts not previously assessed in the EIR therefore no new environmental document is necessary under Public Resources Code Section 21166 hereby approved; the above entitled Bill No. B-128 rezoning the project site to remove an existing condition of zoning in order to allow a second point of access from the subject property to Friant Road adopted as Ordinance No. 2006-125; and the above entitled Resolution No. 2006-400, Option "B", hereby adopted as recommended, by the following vote:

Ayes :	Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	Boyajian
Absent :	None

(3:00 P.M.#1) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 4:10 p.m. and convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF AUGUST 15, 2006

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the Agency minutes of August 15, 2006, approved as submitted.

RECESS - 4:14 P.M. - 4:19 P.M.

(A) PRESENTATION BY KAREN BOSCH COBB, FRESNO COUNTY LIBRARIAN, ON FRESNO COUNTY BRANCH LIBRARIES IN THE CITY AND THE NEW FRESNO COUNTY CENTRAL LIBRARY - COUNCILMEMBER STERLING

County Librarian Bosch gave an in-depth PowerPoint presentation on the County Library's plan for the development/improvement of branch libraries in the city and on the new Cental Library project **(8 - 0)**; and Architect Art Dyson spoke to his vision for the design of the new Library.

Chair Sterling thanked Ms. Bosch and Mr. Dyson for the presentation and asked that Council be kept informed/updated. Executive Director Murphey added staff met a number of times with Ms. Bosch and her team over the past year and they were very supportive of the site for the new library, and stated parking, street scape and open space improvements will be important to district stakeholders and there would be increased focus on those items as the project moves forward. Chair Sterling added the young people and especially inner-city children were looking forward to the new facility as a lot of them do not have computers or a safe place to study. President Duncan stated he hoped the Board of Supervisors, who were willing and quick to approve a bond to build a the new juvenile, will step forward to approve a bond to build a new library when the time comes. There was no further discussion.

The joint bodies adjourned their meeting at 4:40 p.m.

(3:15 P.M. #1) ADOPT THE FRESNO POLICE DEPARTMENT VIDEO POLICING PROJECT POLICY AND GUIDELINES MANUAL AS PREPARED BY THE DEPARTMENT IN CONJUNCTION WITH THE POLICE CHIEF'S ADVISORY PANEL ON VIDEO POLICING

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Chief Dyer reviewed the issue, all as contained in the staff report as submitted, and recommended the manual be adopted.

Speaking to the issue were: Philip Erro, who expressed various concerns and offered recommendations; Mike Rhodes, member of the Chief's Advisory Panel, who spoke to panel recommendations that were removed or changed; George Bill, who expressed concerns and stated the manual was unbalanced; Vincent Lavery, 2004 S. Willow, opposed; Roselyn Clark, 3860 E. Rialto, support; Mai Summer Vue, 4016 E. Holland, concerned with violation of constitutional rights; Tracy Pepper, 5076 W. Menlo, on behalf of the League of Women Voters, who expressed concern with covering political demonstrations and spoke to the need for oversight and accountability; Ignacio Garibay, 2533 N. Knoll, opposed; and Timothy Keaton, Target Corporation, 7600 N. Blackstone, who spoke to the benefits of cameras **(9 - 0)**.

Extensive discussion ensued. Councilmember Calhoun stated in a democracy there is always the balancing of individual rights with the need to enforce the law and the City was at that tricky point; noted cameras were operating here at City Hall without signs and people were being watched entering and leaving the building and stated that was "creepy"; advised he did not support the purchase of the cameras at budget but Council directed a policy be brought back and thanked Chief Dyer and Capt. Maroney for the work they did; and stated a number of legitimate issues were raised, stated the question was whether the manual provided the necessary protection and provided the balance between civil liberties and enforcement of the law, and identified and spoke to his concerns with some of the guidelines in the manual. President Duncan recommended Council members provide some direction or recommendations to help staff.

Councilmember Boyajian stated he also did not support the cameras as he did not know the economics; stated minorities were the majority of this community and the police department did not reach out to them; questioned what the rush was and what the purpose was stating staff should clearly spell it out and quit playing games; expressed his concerns with the cameras; stressed an independent party was needed to audit the program and community input was needed; elaborated further on additional camera concerns and questioned who would be monitored, what would be done with video footage, how long material would be kept, and if trained personnel would operate the cameras; stated signs needed to be posted; and stated he supported the police helicopters, he never committed a crime, and he did not appreciate being followed by the helicopters.

Councilmember Sterling commented on the issue and presented questions relative to why there would be surveillance of political demonstrations when they are covered by TV cameras, how the department will decide which demonstrations to cover, if staff was supportive of an independent party reviewing the program, her strong opposition to and concern with racial profiling and what the plan was to ensure that would not occur, if posting of signs was a constitutional requirement, why staff did not want a posting requirement, the crime in District 3/the support for cameras/and if Council members could submit/recommend locations for cameras in their districts, need for the police department to go out into the community, what the community outreach plan was, request that her office be a part of any process for an independent auditor or accountability, and her understanding of the need for cameras, with Capt. Maroney and Chief Dyer responding throughout.

Councilmember Westerlund advised he was the one who made the motion that there be no further purchase or operation of cameras until a policy was adopted and thanked staff for their adherence to that direction and the panel and community for their work and input; stated this was a good policy overall; stressed at issue was the safety of the community and the purpose of the program was clearly laid out at the beginning of the manual; **(10 - 0)** noted many comments were made on legal issues and concerns and clarified the standards set forth in this policy were standards set by the United States and the California Supreme Courts and not by the City Council;

spoke to, explained, and expressed his appreciation for the "reasonable suspicion" standard here and to how there was no reasonable expectation of privacy while out in the public; and made a motion to adopt the Policy and Guidelines Manual with the following provisions: (1) a yearly report to Council on guidelines/policy compliance, and (2) the City hire a retired Federal Court judge annually to review the program, which motion was seconded by Councilmember Dages.

Councilmember Dages stated Councilmember Westerlund did a good job explaining the legal issues; commended Chief Dyer for doing a great job noting the past month had been extremely stressful for him; stated he was surprised with the comment that cameras could be used to look through people's clothing, he was amazed people were looking at this as a glass completely empty, and stated for the last hour and a half he's heard that the police department was the bad guy and stressed police were not the criminals; stated people were mentally looking at this a little wrong and explained; advised Kings Canyon & Armstrong was one area where residents wanted cameras due to a huge graffiti problem; and stated he was happy to support this policy, he was disappointed some people were not supporting the police department stressing they needed to be supported and not the criminals; and relative to comments made stated he fought in Viet Nam for this country and he would not stand for people saying this country was not great.

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Acting President Perea stated he also supported the policy as presented and was supportive of the cameras; spoke to how the graffiti surveillance undercover vans have been very effective, successful and appreciated by the people; added Manchester Center as another area for the cameras stating they were wanted and would be welcomed by the surrounding neighborhoods due to prostitution and drug trafficking; and stated he understood the community's concerns and although he was still a little uneasy that demonstrations would be monitored he was satisfied with the reason given by Chief Dyer to Councilmember Sterling.

President Duncan noted the policy talked about "actively" monitoring political demonstrations and it was his understanding this would be a passive system, and presented questions and comments relative to why the program was now more active, how cameras would be able to follow people driving around town, why that provision was included if it would be impossible to follow people around, concern with actively monitoring political demonstrations or any other demonstration and request that that provision be removed, support for the offer made to reconvene the panel in six months to look at how the policy is working, and request that the manual be applied city-wide to all city-owned facilities, with Chief Dyer and City Manager Souza responding. Upon President Duncan's request, Councilmember Westerlund stated he was not willing to amend his motion to remove language relative to political demonstrations for the same reasons the Chief articulated earlier. President Duncan stated he supported where the department was going but would not support the motion on the floor, and questioned how Chief Dyer anticipated cameras replacing officers and why the Mayor stated in his veto message he was vetoing the addition of 5 officers due to the addition of video surveillance, with Chief Dyer and Mr. Souza responding. President Duncan commended Chief Dyer and Capt. Maroney for all their work. To gain President Duncan's support, Chief Dyer suggested the language "demonstrations/rallies" on Page 10 be changed to "large gatherings", with President Duncan stating he appreciated that but clarified his concern was with the word "active". Chief Dyer further clarified the issue of the 5 additional officers upon question of Councilmember Sterling.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the Policy and Guidelines Manual as presented by the Video Policing Project Manager and the Chief's Advisory Panel on Video Policing hereby approved, by the following vote:

Ayes :	Dages, Perea, Sterling, Westerlund
Noes :	Boyajian, Calhoun, Duncan
Absent :	None

(3:15 P.M. #2) RESOLUTION - AUTHORIZING THE SPECIFICATIONS OF PELCO ENDURA SURVEILLANCE SYSTEM UNDER THE SOLE SOURCE EXCEPTION IN FUTURE PROCUREMENT SOLICITATION FOR THE VIDEO POLICING PROJECT INSTALLATIONS AT VARIOUS LOCATIONS THROUGHOUT THE CITY WITHOUT SUBSTITUTION

Upon question of President Duncan, Capt. Maroney clarified this established standards for the equipment, it was requesting an exclusive manufacturer's product be used, and it was his understanding it allowed for the purchase.

Councilmember Calhoun stated this was a sole source which meant it had to meet the highest standards of why it is not put out to bid, and expressed concerns stating there were no cost comparisons, he knew nothing about Pelco Endura cameras, he didn't know how expensive they were, he didn't know what other companies were offering, he didn't know the difference between cameras, he was disappointed with staff bringing this forward with the police department basically saying "we want these, give them to us", and upon his request General Services Director Nerland began speaking to staffs position, justification, and the matrix that showed the comparisons between the camera systems under consideration, whereupon Councilmember Calhoun stated the matrix was not included in Council's packet and questioned if it was an oversight or a convenient oversight. City Manager Souza stated if it was an oversight or error it was an oversight or error and there was no intent to convenience or otherwise.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled 3:15 p.m. #2 Item tabled one week for additional information, by the following vote:

Ayes : Boyajian, Calhoun, Sterling, Westerlund, Duncan
 Noes : Dages, Perea
 Absent : None

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(3:30 P.M.) CONTINUED HEARING ON PLAN AMENDMENT NO. A-05-13, REZONE APPLICATION NO. R-05-79, AND ENVIRONMENTAL FINDINGS, FILED BY CEI ENGINEERING ASSOCIATES ON BEHALF OF OWNERS ROBERT AND HA DO, SOUTHWEST CORNER OF W. KEARNEY BOULEVARD AND S. CRYSTAL AVENUE - 1705 W. KEARNEY BOULEVARD
1. CONSIDER AND ADOPT A FINDING OF A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-05-13/R-05-79
2. RESOLUTION NO. 2006-401 - AMENDING THE GENERAL PLAN AND EDISON COMMUNITY PLAN
3. BILL NO. B-129 - ORDINANCE NO. 2006-126 - AMENDING THE FRESNO -CHANDLER DOWNTOWN AIRPORT MASTER AND ENVIRONS SPECIFIC PLAN
4. BILL NO. B-130 - ORDINANCE NO. 2006-127 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-1-A/UGM/cz TO R-1/UGM/cz

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question staff advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

Councilmember Sterling thanked the applicant and made a motion to approve staff's recommendation.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding of a Mitigated Negative Declaration for the above entitled E.A. with mitigation measures dated March 16, 2006, hereby approved, the above entitled Resolution No. 2006-401 hereby adopted, and the above entitled Bill Nos. B-129 and B- 130 adopted as Ordinance Nos. 2006-126 and 2006-127, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(2:00 P.M. #1) CONTESTED CONSENT CALENDAR:

(1-A) AWARD A THREE-YEAR COPIER LEASE PROGRAM CONTRACT WITH THE OPTION OF THREE ONE YEAR EXTENSIONS TO RAY MORGAN AND COMPANY BASED ON THEIR COST PER COPY PROPOSAL III

GSD Manager Watahira and Teri Baymer of California Business Machines (CBM) responded to questions of Councilmember Boyajian relative to what the plan was for the old copy machines, if the City was going to be leasing instead of buying, what staff's response was to comments made during the morning session by Ms. Baymer that it would be cheaper for the City to continue the process

with her company than lease, how much the City will save with the cost per copy deal, contract term, number of machines the City has, what Ms. Baymer's response was to staff's position, if Ray Morgan Company (RMC) was a large leasing company, and if the City would save money by going with CBM.

Councilmember Sterling noted there were a number of needy organizations who could use the old copiers, requested staff look into whether the City could make the machines available to the community and to work with her office on that, and made a motion to approve staff's recommendation, which motion was seconded and later acted upon.

Upon question of Councilmember Dages, a RMC representative advised the company had been in Fresno for two years. Councilmember Calhoun stated he did not know enough about the details **(11 - 0)** and had a concern with such a major change, particularly with the price differential, and stated unless staff wanted to take this back he would not support the motion. Ms. Baymer and Mr. Watahira responded to questions of President Duncan relative to whether staff's report stating a third party software interface would be required at an additional cost of \$300,000 if they use the copiers proposed by CBM was accurate, what the Equatrack software would do, meaning of "large operating expenses are anticipated", why it was that critical to track individual users versus departments, why the Ray Morgan proposal was cost effective, and if anticipated savings would be over what the City is currently spending or over other proposals. President Duncan stated he could not support the motion as he did not have a lot of confidence in the process and suggested Council consider rejecting all the bids and have staff start over to get a level playing field.

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Tito Mafino, Manager of the local RMC, clarified issues relative to comments made by Ms. Baymer and spoke to their proposal and the technology they offer, and along with GSD Director Nerland and ISD Network Systems Specialist Sanders responded to questions of Councilmember Westerlund relative to RMC's proposal and prices, if RMC did have the lowest cost, if the major idea was to use the copier for community printing as well as copying, if CBM's copiers had that same capability, differences between RMC and CBM copiers, and if it was ISD's position that RMC's proposal was the better one hands down.

A motion of Councilmember Sterling, seconded by Acting President Perea, to award the Citywide copier lease contract to Ray Morgan Company failed, by the following vote:

Ayes :	Perea, Sterling, Westerlund
Noes :	Boyajian, Calhoun, Dages, Duncan
Absent :	None

(1-B) APPROVE AN AGREEMENT WITH NAVIGANT CONSULTING IN THE AMOUNT OF \$198,500 FOR STRATEGY DEVELOPMENT AND FINANCIAL ANALYSIS FOR THE FORMATION OF A SPECIAL UTILITY DISTRICT IN THE CITY

Upon question of Councilmember Westerlund, Assistant Public Utilities Director Andersen clarified the purpose of the agreement was for Navigant to strategize and do the financial analysis for formation of a Special Utility District (SUD) or actual privatization. Councilmember Westerlund stated that was not what the report said, noted staff's report stated Navigant's final report after their review of the Utilities Department indicated a SUD structure would best benefit the community; and stated the City engaged a utility commission to make a determination and recommendation to Council and stated this was putting the cart way before the horse as a SUD had not been presented to Council and there had been no public presentation on the issue, with Mr. Andersen responding and further clarifying issues. Councilmember Westerlund stated the consultant should have presented the findings to the utility commission, he could not support this, requested a copy of Navigant's final report, and stated the commission needed to be able to do their job, get all information from an impartial party, and report back to Council on what is the best for the community.

Councilmember Calhoun stated he respectfully disagreed with Councilmember Westerlund and advised he told the City Manager this appeared to be a neat idea, stated the timing was good that this information came in so the utility commission could it, stated the commission may not like what they get but clarified Council would have the last say, and stated he was pleased this was brought forth.

John Hutson, Chairman of the utility commission, stated the commission was doing its job, clarified he requested staff place this matter on the agenda and added if the City was going to move in the direction of a special water district he wanted to hear more about that from the consultant's mouth, and responded to questions of Councilmember Boyajian relative to the commission's job being to look at rate increases and why this was relevant to that, if Mr. Hutson's position was that a Municipal Water District was best, and if the commission needed all this information before making a decision on rate increases.

Councilmember Westerlund stated he understood the commission wanting the consultant to come in and answer their questions but clarified this agreement was for \$198,000 and he did not think there was \$198,000 worth of questioning, and spoke additionally to the staff report and stated his concern was that there seemed to be a pre-determined outcome and he wanted the commission to be able to have information to make an objective study and recommendation. Mr. Hutson stated there was no pre-determined outcome or anything else, invited Councilmember Westerlund to the commission's meetings, and further elaborated on the issue.

A motion and second was made to approve staff's recommendation.

President Duncan stated when he first read this it also concerned him, stated this obviously has nothing to do with the commission and added he was proud of the work they were doing and their independence, stated he would support this as the City had to move forward but clarified his concern was the way this has been presented to Council up to this point, stated this issue was huge and Council may be making the single most significant decision in the history of the city and explained, noted Navigant's final report was completed in April, Council had yet to see it, it was very disturbing to him that the information was not shared with Council or the public and it fell to the perception that the outcome was pre-determined by the Administration, and he did not understand the hesitation to share reports with Council so the public can be informed and provide their input, and requested Council be provided with the report and that staff schedule a workshop on the issue and recommended the first meeting in September.

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City Manager Souza stated there would be no problem with a workshop and spoke to the report stating it was taken somewhat out of context, confirmed there has been no Council discussion of a Municipal Utility District which was why Council had not seen the report, stated the report was done, it was presented to the commission, it was part of the process and was looked at it as a flyover, staff looked at it as the Mayor questioned if it even made sense, the commission stated they needed more information which was why this item was brought forth this date, and stated to imply that staff was secretly hiding information with some grand plot was erroneous, and stated the report would be provided to Council tomorrow. President Duncan stated all he wanted was for Council to be kept in the loop.

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, RESOLVED, the agreement with Navigant Consulting in the amount of \$198,500 for strategy development and financial analysis for the formation of a Special Utility District in the city of Fresno hereby approved, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Duncan
Noes :	Westerlund
Absent :	None

(1-R) RESOLUTION NO. 2006-402 - AMENDING AND SUPERSEDING RES. 2006-359 AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE CALIFORNIA HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT FOR AN ENTERPRISE ZONE DESIGNATION FOR THE CITY OF FRESNO, AND AUTHORIZING STAFF TO EXECUTE ALL NECESSARY DOCUMENTS AND AGREEMENTS

Councilmember Westerlund spoke to the issue and upon his request, Interim Economic Development Director Johnson stated staff would include the Roeding Industrial Park and the Golden State Corridor in the marketing plan and clarified staff looked at the marketing plan as a future strategy plan and not a current one. A motion and second was made to adopt the resolution with the two additions.

Councilmember Calhoun stated he saw Blackstone as "Main Street Fresno" and was pleased to see that it was not forgotten, and stated it was important to make the statement that the Enterprise Zone was not just south of something and thanked staff. Councilmember Boyajian spoke to the issue, questioned if North Avenue was included noting a lot of money had been spent there (with Mr. Johnson stating it was), and spoke to the importance of the Golden State Corridor. Upon question of Acting President Perea, Mr. Johnson stated the requested changes were positive and explained, and stated they would not have an effect on the original proposal. Acting President Perea stated he was also glad to see Blackstone included as there was a lot of potential with a lot of the vacant buildings and stated he wanted to set up a future meeting with staff.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2006-402 hereby adopted, *as amended*, adding the Roeding Industrial Park and the Golden State Corridor to the marketing plan, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(1-U) RESOLUTION NO. 2006-403 - AUTHORIZING CHANGES IN THE OPERATIONAL HOURS FOR PARKING METERS, PARKING GARAGES, AND SURFACE LOTS IN THE FULTON MALL AND CONVENTION CENTER ENVIRONS , AND ADOPTING THE CONVENTION CENTER SPECIFIC PARKING METER ZONE AND AUTHORIZING ACTION NECESSARY IN PURSUIT THEREOF

Councilmember Dages complimented Parking Manager Estabrooke and staff stating they did a great job and came up with a great plan, and upon his request Mr. Estabrooke explained the changes and times and how they would be implemented. Councilmember Dages spoke further to the plan and to the new 4-hour meters, clarified the changes were made to get people downtown for things other than Grizzlies games and Convention Center events, and made a motion to adopt the resolution.

Upon the request and questions of Councilmembers Westerlund, Boyajian and Sterling, Mr. Estabrooke stated signs would be posted on the empty attendant booths at parking garages, there would still be security at the parking garages, there was no plan to have 8-hour meters, and the changes would become effective in 30 days and the non-seasonal hours would start September 1st.

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2006-403 hereby adopted, by the following vote:

148-71

8/22/06

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None
 :

(1-V) BILL NO. B-131 - INTRODUCTION OF BILL AMENDING THE OFFICIAL LIST OF DESIGNATED SPEED ZONES AND DESIGNATING SPEED LIMITS FOR VARIOUS STREETS WITHIN THE CITY PURSUANT TO THE FRESNO MUNICIPAL CODE

Councilmember Dages spoke to the need to change the speed limit on Jensen from Chestnut and Clovis Avenues from 65 mph to 50 mph for safety reasons/speeders and because that portion had the most residential and further explained, and upon his question City Manager Souza stated there was a basis for why it was designated at 65 mph and he would have staff return with the basis for why it is 65 and what it would take to change it to another speed limit. Councilmember Dages directed staff to return with the enabling documents to get the speed reduced and stated he would not approve this with that speed limit and he did not want his vote on something his constituents were telling him was too fast.

A motion and second was made to introduce the ordinance bill as submitted. Councilmember Calhoun stated he would not support anything where a Councilmember directs staff to change the speed limit stating there were requirements, whereupon President Duncan clarified Councilmember Dages was voting "no" on this and his direction to staff was not part of the motion.

Traffic Engineering Manager Mozier spoke to how that section of Jensen Avenue has been a challenge for staff. Relative to Councilmember Calhoun's concern, Mr. Souza stated he took the direction to be for staff to go back and review the matter and return with a recommendation and if it could not be reduced to continue to work until the speed limit can be reduced to 50.

On motion of Councilmember Westerlund, seconded by President Duncan, duly carried, RESOLVED, the above entitled Bill No. B-131 introduced before the City Council and laid over, by the following vote:

Ayes : Boyajian, Calhoun, Perea, Sterling, Westerlund, Duncan
 Noes : Dages
 Absent : None

(2-B) DIRECT STAFF TO RETURN WITH A PROPOSAL THAT WILL OFFER HOMEOWNERS A TAX INCENTIVE OR REBATE

FOR THE USE OF SOLAR ENERGY IN HOMES - ACTING PRESIDENT PEREA

Laid over one week at the direction of Acting President Perea.

(3:00 P.M. #2) CONTINUED HEARING ON REZONE APPLICATION NO. R-05-93 AND ENVIRONMENTAL FINDINGS, FILED BY VALLEY RIVER DEVELOPERS, LLC, SOUTHWEST CORNER OF N. LOCAN AND E. DAKOTA AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-05-93/T-558, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-132 - ORDINANCE NO. 2006-128 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-20 TO R-1/UGM

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Braun advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

On motion of Councilmember Westerlund, seconded by Acting President Perea, duly carried, RESOLVED, the environmental finding for the above entitled E.A. dated May 17, 2006, hereby approved, and the above entitled Bill No. B-132 adopted as Ordinance No. 2006-128, by the following vote:

148-72

8/22/06

Ayes : Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : Boyajian
 Absent : None

(4:00 P.M. #2) JOINT MEETING WITH THE JOINT POWERS FINANCING AUTHORITY (JPFA)

The City Council recessed at 7:56 p.m. and convened in joint session with the JPFA.

(A) REDEMPTION OF THE MOTOR VEHICLE IN-LIEU FEE (MVLFF) PORTION OF THE JPFA LEASE REVENUE BONDS (VARIOUS CAPITAL PROJECTS), SERIES 2004B, AND THE SUBSEQUENT PAYOFF OF THAT PORTION OF THE BONDS

1. RESOLUTION NO. 2006-404 - 10TH AMENDMENT TO AAR 2006-253 APPROPRIATING \$4.7 MILLION FOR THE REPAYMENT OF THE MVLFF PORTION OF THE 2004 LEASE REVENUE BONDS

Interim Controller/Finance Director Bradley reviewed the issue as contained in the staff report as submitted and recommended approval.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2006-404 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

The joint bodies adjourned their meeting at 7:58 p.m. and the City Council reconvened in regular session.

(2:00 P.M. #2) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:

(A) ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: COF V. M.J. MENEFEE CONSTRUCTION,

INC., GREAT AMERICAN INSURANCE COMPANY

(B) EXISTING LITIGATION - CASE NAME: ANGEL SANDOVAL RIOS V. COF, ET AL.

The City Council met in closed session in Room 2125 at the hour of 8:00 p.m. to consider the above matters and reconvened in regular open session at 8:08 p.m.

CLOSED SESSION ANNOUNCEMENT:

City Attorney Sanchez announced in the matter of Item "A", the Council voted 7-0 to authorize the City Attorney to file a lawsuit against M.J. Menefee Construction, Inc., and Great American Insurance Company.

(2:30 P.M.) **RESOLUTION NO. 2006-405** - RE-ALLOCATING \$700,000 WITHIN THE MEASURE C CAPITAL FUND FOR THE HERNDON AVENUE STREET WIDENING PROJECT

1. AWARD A CONTRACT IN THE AMOUNT OF \$1,753,690 TO FOSTER & SONS GENERAL ENGINEERING CONTRACTORS, INC., TO COMPLETE THE HERNDON AVENUE PROJECT BETWEEN MARKS AND WEST AVENUES

Upon question of President Duncan, Assistant Construction Manager Krauter advised the staff report as submitted was complete and there was no new information to add.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2006-405 hereby adopted, and the above entitled contract awarded as recommended, by the following vote:

148-73

8/22/06

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes : None
Absent : None

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 8:10 p.m. having arrived and hearing no objections, President Duncan declared the meeting adjourned.

Approved on the 29th day of August, 2006.

_____/s/_____
Jerry Duncan, Council President

ATTEST: _____/s/_____
Yolanda Salazar, Assistant City Clerk

148-74

8/22/06